

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 9084 WO GI-FRI	FOR FURTHER ACTION	See Form PCT/IPEA/416																								
International application No. PCT/EP2004/005235	International filing date (<i>day/month/year</i>) 15.05.2004	Priority date (<i>day/month/year</i>) 14.06.2003																								
International Patent Classification (IPC) or national classification and IPC 																										
Applicant ZF FRIEDRICHSHAFEN AG																										
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table style="margin-left: 20px; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005235

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

 - international search (Rule 12.3 and 23.1(b))
 - publication of the international application (Rule 12.4)
 - international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 the claims:
 nos. 1-11 as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____
 the drawings:
 sheets _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____
 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/005235

Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	_____	YES
	Claims	1, 2, 5, 9, 11	NO
Inventive step (IS)	Claims	_____	YES
	Claims	3, 4	NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims	_____	NO

2. Citations and explanations (Rule 70.7)

1 This report makes reference to the following documents:

D1: US 4 309 918 A (MILLER ALBERT A ET AL) 12 January 1982 (1982-01-12)

D2: US 3 631 950 A (TANAKA SEIJI) 4 January 1972 (1972-01-04)

D3: US 3 994374 A (GILL RAYMOND E) 30 November 1976 (1976-11-30)

D4: DE 101 29 067 A (BOSCH GMBH ROBERT) 19 December 2002

D5: EP 1 145 927 A (BAYERISCHE MOTOREN WERKE AG) 17 October 2001

2 INDEPENDENT CLAIM 1

2.1 The present application fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

D1 discloses (the references in parentheses are to D1): a method of braking a motor vehicle in the event of failure of the normal braking system (column 1, lines 2-28), wherein all brakes (B1-B3)

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

not included in the shifting logic of a gear are engaged in a controlled manner via a retarder regulator valve (41).

2.2 The present application fails to meet the requirements of PCT Article 33(2) because the subject matter of claims 1 and 2 is not novel within the meaning of PCT Article 33(2).
D2 discloses (the references in parentheses are to D2): an emergency braking method in which, when the manual valve (2) is moved into position E (emergency), the transmission shifts back to first gear (7) and when a predetermined vehicle speed falls below a threshold, the transmission is locked as a result of both clutches (8, 7) being closed (8, 7).

3 DEPENDENT CLAIMS 2 TO 5, 9 AND 11

Claims 2 to 5, 9 and 11 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step.

D4 discloses a method of automatic braking in the event of an emergency, wherein various options are available for retarding the transmission.

It is known from D1, D2 or D3 to carry out braking while simultaneously selecting different gears. A person skilled in the art would also use this feature in D4 in order to generate a braking force in the transmission.

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
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4 DEPENDENT CLAIMS 6, 8 AND 10

The combination of features in claims 6, 8 or 10
is neither known nor obvious from the available
prior art.